



COUNTY OF CULPEPER Office of Planning and Zoning

FAMILY DIVISION APPLICATION AND AFFIDAVIT

General Information: All subdivision plats must be prepared by a licensed surveyor. The family division plat and deed must meet the requirements of Sections **600** and **613** of the Culpeper County Subdivision Ordinance (Appendix B of the Code of the County of Culpeper, Virginia) (the "Ordinance"). The plat must contain a notice which states:

This plat and the family division which it represents are pursuant to Section **613** of the Culpeper County Subdivision Ordinance (Appendix B of the Code of the County of Culpeper, Virginia) (the "Ordinance"). Further transfer and division of the lots or parcels shown on the plat is limited in accordance with the provisions of Section **613.6.5** of the Ordinance. Building permits and/or certificates of occupancy may not be granted if the division is found by the Zoning Administrator to be in circumvention of the Ordinance's requirements, or if the proposed transferee does not comply with the requirements of Section **613.3** of the Ordinance, as they may be adjusted pursuant to Section **613.9.3** of the Ordinance.

The full Family Division Application and Affidavit must be completed and sworn before a Notary Public for the Commonwealth of Virginia. The proposed deed of transfer must be submitted and approved as to form by the Culpeper County Attorney prior to the Zoning Administrator's approval of this Family Division.

The following information is required to determine qualifying status in subdivision requests to be exempted from standard procedure, as outlined in Sections 600 and 613 of the Subdivision Ordinance, which are attached hereto and incorporated by reference. A separate form is to be completed for each lot proposed.

1. Grantor(s): _____ Phone: _____
(as shown on current deed)
Address: _____
2. Grantee(s): _____ Phone: _____
(to be shown on deed of transfer)
Address: _____
3. Tax Map and Acreage of Grantor(s)' Parcel: _____
Acreage of Grantee(s)' Lot to be created _____
Location: _____
4. Fee and Receipt: _____

5. RELATIONSHIP: The GRANTEE is the _____ of the GRANTOR.
6. Has either the GRANTOR or the GRANTEE ever transferred property to anyone, utilizing the family division (formerly family partition) exception? _____
If the answer is YES, please detail each instance (attach a separate sheet if necessary): _____

7. Has the GRANTEE ever received property from anyone, utilizing the family division (formerly family partition) exception? _____
If the answer is YES, please detail each instance (attach a separate sheet if necessary): _____

8. By signing this application and affidavit, GRANTOR and GRANTEE hereby certify that the proposed division is not for the purpose of circumvention of the requirements of the Subdivision Ordinance. Is this understood by the GRANTOR and GRANTEE? _____
9. Please state the purpose of the proposed division: _____

10. By signing this application and affidavit, GRANTEE hereby certifies that the property to be conveyed is to be used only for housing and shelter of the GRANTEE, that GRANTEE is currently able to and intends to occupy the property as his or her primary domicile within the time period required by Section 613.3 of the Subdivision Ordinance, that GRANTEE understands and agrees that a building permit or a certificate of occupancy may not be issued in the event the conveyance is for the purpose of circumventing the requirements of the Subdivision Ordinance; and that GRANTEE understands and agrees that the property is subject to the requirements of Section 613.6.5 of the Subdivision Ordinance. Is this understood by the GRANTEE? _____

I swear (or affirm) that the foregoing information and certifications are true and correct to the best of my knowledge, information and belief. Any materially false statements may result in denial of building permits and/or certificates of occupancy and may result in such other penalties as provided by law.

SIGNED:

GRANTOR

GRANTEE

GRANTOR

GRANTEE

Subscribed and sworn before me this _____ day of _____, 20____.

Notary Public

My commission expires: _____

Zoning Administrator's Approval: _____ Date: _____

SECTIONS 600 AND 613 EXCERPTED FROM THE CULPEPER COUNTY SUBDIVISION ORDINANCE, APPENDIX B, CULPEPER COUNTY CODE

600. Generally.

Those certain types of subdivisions listed in Section 610 below are defined as “minor divisions” and may, with approval as provided below, be exempted from some or all of the standard procedures outlined in Articles III, N and V of this ordinance. Such divisions are subject to the provisions and must conform to the requirements and procedures set forth herein:

- 601** All minor divisions that are created by the subdivision of previously divided parcels may only be approved upon demonstration that the size, shape and design of the proposed lot or lots are in character with the original division and the surrounding area and may not violate the standards under which the original division was approved without complying fully with the requirements for a subdivision in Articles III, IV and V of this Ordinance.
- 602** The developer shall prepare and submit sketch plan maps and supportive data as may be required according to the procedures as set forth in Sections 300 through 320 of this Ordinance, exclusive of Section 314, for discussion with the Office of Planning and Zoning.
- 603** When no major incompatibility is found between the development potential of the site and the developer’s general concept of the site, and within sixty (60) days after completion of sketch plan review by the Office of Planning and Zoning, the Zoning Administrator shall either (a) authorize the preparation of a final plan pursuant to Section 604 below, or (b) proceed pursuant to the provisions of Section 605 below.
- 504** The final plan shall meet the requirements set forth in Section 520 of this Ordinance.
- 604.1** In addition to any other required items, the final plan must show any supplemental information as may be required by the Highway Department, Health Department or the Soil and Water Conservation District and any approvals required thereof.
- 604.2** The final plan shall be submitted to the Office of Planning and Zoning and reviewed in accordance with the procedures as set forth in Section 510 of this Ordinance.
- 604.3** If all the requirements of this Ordinance and other applicable laws have been met, the final plan shall be approved and may be recorded according to the requirements set forth in Section 530 of this Ordinance.
- 605** If, in the opinion of the Zoning Administrator, the proposed subdivision, for reasons of public health, safety, and welfare, should be required to comply with any or all of the requirements of Articles III, N or V of this Ordinance, the Zoning Administrator may require the applicant to comply with any or all of the requirements. The Zoning Administrator will notify the developer in writing of the reasons for his decision.
- 605.1** The Planning Commission may overturn the Zoning Administrator’s determination pursuant to Section 605, in whole or in part, when considering the developer’s application.
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- 613 Family divisions.** In zoning districts zoned A-1 (Agricultural) or RA (Rural Area) only, the single division of a lot or parcel for the purpose of sale or gift to any non-minor member of the immediate family of the property owner. For the purposes of this provision, “immediate family” shall be defined as any person who is a natural or legally defined child, sibling, parent, grandparent, or step-child, step-parent, or step-sibling of the property owner. The provisions of this section shall not apply to transfers of undivided interests by one or more co-tenants or joint tenants of any parcel to one or more of the other co-tenants or joint tenants.
- 613.1** Only one (1) such division shall be allowed per family member and shall be certified as such by the owner at the time of application to the Office of Planning and Zoning.
- 613.2** Lot size shall conform to the requirements of Section 9-3-3 of the Culpeper County Zoning Ordinance.
- 613.3** The sale or gift by the property owner shall be for the bona fide purpose of providing immediate housing and shelter for eligible family members as provided above. For the purposes of this Section, “immediate” shall be defined as obtaining a building permit for such housing and shelter within twelve (12) months of the division pursuant to Section 613, thereafter diligently pursuing a primary domicile in a residence constructed as described in such permit and located on the parcel, and occupying such residence no later than twenty-four (24) months after the division.
- 613.4** The sale or gift by the property owner shall not be for the purpose of circumventing the requirements of this Ordinance.
- 613.5** The remaining land or remnant lot created by subdivision under this section shall itself be considered a family division enjoying the same exemptions as any other lot or lots approved from the original parcel and subject to the requirements of section 613.1; provided, however, that if the remaining land or remnant lot shall not in all other respects conform to the requirements applicable to lots in that zoning district, the remaining land or remnant lot shall be subject to the same restrictions imposed by section 613.6 on the new parcel.
- 613.6** All divisions pursuant to this section shall conform to the following requirements:
- 613.6.1** The deed of conveyance shall conform to the requirements of Section 613.8 below.
- 613.6.2** Each and every lot created by such a division, including any remaining land or remnant lot, shall have perpetual ingress and egress to a dedicated, recorded public street, either by being located on such street or by a recorded, platted, irrevocable easement of at least fifty (50) feet in width (“private street”), linking such lot to such a public street.
- 613.6.2.1** The provisions of Sections 612.2 and 612.3 above shall apply to private streets permitted by this Section 613.6.2.
- 613.6.2.2** Notwithstanding Section 613.6.2.1, where a “private farm lane” has already been established and recorded pursuant to the predecessor provisions of Section 736 (Ordinances of Mar. 3, 1987 & Mar. 5, 1991), such a “private farm lane” may be utilized to obtain the required access to a public street, provided that all affected parties consent thereto, and provision is made for the maintenance of the “private farm lane,” and for easements as required by Section 612.2.

613.6.3 Prior to the **approval** of any family division, the owner creating the family division and the proposed transferee shall execute an affidavit as provided for in Section **613.7** below.

613.6.4 If the family division is **approved**, the plat of subdivision shall contain a notice in a form to be approved by the county attorney, which notice shall state, at a minimum, that the plat and the division are pursuant to the requirements of this Section **613**, that further transfer of the lots or parcels shown on the plat is limited in accordance with the provisions of Section **613.6.5**, and that building permits and/or certificates of occupancy may not be granted if the division is found by the Zoning Administrator to be in circumvention of the requirements of the Culpeper County Subdivision Ordinance, or if the proposed transferee does not comply with the requirements of Section **613.3**, as they may be adjusted pursuant to Section **613.9.3**.

613.6.5 Except as otherwise provided in Section **613.9** below, no transferee under this provision shall further transfer or subdivide any lot created hereunder for a period of five (5) years from the date of the transfer.

613.7 The affidavit required in Section **613.6** shall conform to the following requirements:

613.7.1 The affidavit shall be in a form approved by the county attorney.

613.7.2 The affidavit shall include:

613.7.2.1 the names of the owner and the proposed transferee;

613.7.2.2 the relationship between the owner and the proposed transferee;

613.7.2.3 information concerning any prior conveyances pursuant to this Section **613** or any predecessor provision of the Culpeper County Subdivision Ordinance affecting either the owner or the proposed transferee; and

613.7.2.4 the purpose of the proposed division.

613.7.3 The affidavit shall contain a certification by the owner and the proposed transferee that the proposed division is not for the purpose of the circumvention of the requirements of this Subdivision Ordinance.

613.7.4 The affidavit shall contain a certification by the proposed transferee that:

613.7.4.1 the property to be conveyed is to be used only for housing and shelter for the transferee;

613.7.4.2 the proposed transferee is currently able to and intends to occupy the property as his or her primary domicile within the time period required by Section **613.3**;

613.7.4.3 the proposed transferee understands and agrees that a building permit or a certificate of occupancy may not be issued in the event the conveyance is for the purpose of circumventing the requirements of this Subdivision Ordinance; and

613.7.4.4 the proposed transferee understands and agrees that the property is subject to the requirements of Section **613.6.5**.

613.8 The deed of conveyance for any family division shall conform to the following requirements:

613.8.1 The deed shall be in a form approved by the county attorney.

613.8.2 The deed shall be executed by both the transferor and the transferee.

613.8.3 The deed shall contain a provision that the property is subject to the requirements of Sections **613.6.5** and **613.9**.

613.8.4 The deed shall contain a statement that the conveyance is for the *bonafide* purpose of providing immediate housing and shelter for an immediate family member pursuant to Section **613** of the Culpeper County Subdivision Ordinance.

613.9 The foregoing provisions are subject to the following exceptions:

613.9.1 Notwithstanding the provisions of Section **613.6.5**, the Board may approve a conveyance within the five (5) year time period where the grantor demonstrates a *bonafide* financial or economic hardship or disaster which necessitates such conveyance.

613.9.2 Nothing herein shall be construed as preventing:

613.9.2.1 any sale or conveyance resulting from a deed of trust foreclosure;

613.9.2.2 any conveyance for the purpose of conveying legal title to any trustee in a *bonafide* deed of trust; or

613.9.2.3 any transfer pursuant to any judicial decree of partition or divorce, including any property settlement incorporated into a divorce decree.

613.9.3 Notwithstanding the provisions of Section **613.3**, the Board may extend the time period in which the transferee is to obtain a building permit or construct his or her primary domicile when the transferee has been unable, due to circumstances beyond his or her control, and in spite of his or her good faith efforts, to do so; or when the transferee demonstrates a *bonafide* financial or economic hardship or disaster which necessitates such an extension.

613.10 The determination whether or not a transfer is in circumvention of the requirements of the Subdivision Ordinance is to be made initially by the Zoning Administrator, and is to be based on any relevant factors. Any person affected by the decision may appeal such a determination pursuant to Section **910**.